

Senate Bill 499

By: Senator Seabaugh of the 28th

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 6 of Title 44 of the Official Code of Georgia Annotated, relating to estates, so as to provide for a tenancy in the entirety; to provide for exceptions; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 6 of Title 44 of the Official Code of Georgia Annotated, relating to estates, is amended by adding a new article to read as follows:

"ARTICLE 10

44-6-220.

(a) On and after July 1, 2010, whenever a devise, conveyance, assignment, or other transfer of real property to both husband and wife together shall be made and the instrument of devise, conveyance, assignment, or transfer expressly declares that the devise or conveyance is made to tenants by the entirety, the estate created shall be deemed to be in tenancy by the entirety. Unless otherwise assented to in writing by both tenants by the entirety, the estate in tenancy by the entirety so created shall exist only if, and as long as, the tenants are and remain married to each other and, upon the death of either such tenant, the survivor shall retain the entire estate. Upon a judgment of dissolution of marriage or of declaration of invalidity of marriage, the estate shall, by operation of law, become a joint tenancy with right of survivorship until and unless the court directs otherwise. A devise, conveyance, assignment, or other transfer to two grantees who are not in fact husband and wife that purports to create an estate by the entirety shall be construed as having created an estate in joint tenancy. An estate in tenancy by the entirety may be created notwithstanding the fact that a grantor is or the grantors are also named as a grantee or the grantees in a deed. No deed, contract for deed, mortgage, or lease of real property held in

tenancy by the entirety shall be effective unless signed by both tenants. This Code section shall not apply to nor operate to change the effect of any devise or conveyance that became effective before July 1, 2010.

(b) This Code section shall not be construed to repeal, modify, or limit in any way either Code Section 14-5-8, relative to joint tenancy of shares and securities of corporations, or Article 8 of Chapter 1 of Title 7, relative to multiple-party accounts in financial institutions, or any other law relative to multiple-party accounts in financial institutions. This Code section shall not apply to any document, transaction, or right to which Code Section 14-5-8 applies or to multiple-party deposit accounts in any financial institution.

(c) Any married person owning property or any interest therein who desires to convert such person's interest into a tenancy in the entirety with such person's spouse may do so by direct conveyance to such spouse by an instrument of conveyance which shall provide that it is the grantor's intent to create a tenancy in the entirety in and to the entire interest in the property previously held by the grantor.

(d) The interest of a debtor spouse in property held as tenants in the entirety shall not be subject to seizure or execution by a creditor of such debtor spouse without the written consent of the nondebtor spouse.

(e) Where property is held by a husband and wife as tenants in the entirety, either spouse may by direct conveyance of such spouse's interest in the property vest the other spouse with title to the property in fee simple.

(f) Where property is held by a husband and wife as tenants in the entirety, notwithstanding the legal meaning of such term and subsections (d) and (g) of this Code section, such tenancy shall not protect the property held by tenants in the entirety from any judgment or levy for alimony or child support.

(g) Except as provided in this Code section, neither spouse may sever, alienate, or otherwise affect their interest in the tenancy in the entirety during the marriage or upon separation without the written consent of both spouses."

## SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.